

# Exhibit B

**COPY**

VOL. I  
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Exhibits 1 - 1

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

C.A. NO.: 0412164MLW

\* \* \* \* \*

ERIC SOUVANNAKANE,

Plaintiff

VS.

SEARS ROEBUCK & COMPANY, WILLIAM  
SULLIVAN, RICHARD SPELLMAN,  
BARBARA TAGLIARINO, KEVIN  
SULLIVAN, ALICIA COVIELLO, GARY  
MANSFIELD,

Defendants

\* \* \* \* \*

Deposition of JOHN W. BALDI, a witness called by  
counsel for the Defendants, Gary Mansfield, pursuant  
to the applicable rules, before Lorreen Hollingsworth,  
CSR/RPR, CSR NO. 114793, and Notary Public in and for  
the Commonwealth of Massachusetts, at the Law Offices  
of Pierce, Davis & Perritano, LLP, Ten Winthrop  
Square, Boston, Massachusetts, on Tuesday, April 18,  
2006, at 10:15 a.m.

CURRAN COURT REPORTING  
(781) 279-8400

1 APPEARANCES:

2  
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On behalf of the Plaintiff

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On behalf of the Defendant,  
Gary Mansfield

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On behalf of the Defendants,  
Sears Roebuck & Company, William Sullivan, Richard  
Spellman, Barbara Tagliarino, Kevin Sullivan, and  
Alicia Coviello

15 Also Present:

16 John A. Baldi,  
17 Father of Deponent  
18  
19  
20  
21  
22  
23  
24

I N D E X

Deposition of:	DIRECT	CROSS
JOHN W. BALDI		
(by Mr. Cloherty)	4	
(by Ms. Tran)		85
(by Mr. Olson)		110

E X H I B I T S

No.		For Ident.
1	The statement dated 10/17/03	70

Exhibits retained by Attorney Cloherty

1                   S T I P U L A T I O N S

2                   It is hereby stipulated and agreed  
3                   by and between counsel for the respective  
4                   parties that the deposition will be read  
5                   and signed by the witness, under the pains  
6                   and penalties of perjury, and that the  
7                   sealing, filing, and notarization of the  
8                   deposition are waived.

9                   It is further stipulated and agreed  
10                  that all objections, except as to form, and  
11                  motions to strike are reserved until the  
12                  time of trial.

13                                 JOHN BALDI,  
14                  a witness called on behalf of the  
15                  Defendant, Gary Mansfield, having first  
16                  been duly sworn, deposes and says as  
17                  follows:

18                                 DIRECT EXAMINATION

19                                 BY MR. CLOHERTY

20         Q         Good morning, sir. Could you please state  
21                   your name for the record.

22         A         John W. Baldi.

23         Q         And what does the W. stand for?

24         A         Wayne.

1 MR. CLOHERTY: Before we go  
2 any further, I'm going to place an  
3 objection on the record. Present in the  
4 deposition room is the deponent's father,  
5 from my understanding, Mr. John A. Baldi,  
6 Sr., who has been identified as an expert  
7 witness in the case by the plaintiff's  
8 attorney, Mr. Olson. And I'm objecting to  
9 this witness' presence in the deposition.

10 I've asked him to excuse  
11 himself out to the lobby during the course  
12 of the deposition. He's refused to do so.

13 In lieu of seeking a  
14 protective order, I'm going to go forward.  
15 I'm just noting my objection on the record.

16 But to the extent that this  
17 witness becomes disruptive with the  
18 proceedings, I'm reserving my right to seek  
19 a protective order in court.

20 Q Sir, have you ever given a deposition  
21 before today?

22 A No.

23 MR. CLOHERTY: I'm going to go  
24 over with you some of the rules of the

1 deposition, how I expect it to proceed.  
2 I'm going to ask that you answer all  
3 questions verbally rather than with a  
4 simple nod of the head or an unh-unh. And  
5 that way, the court reporter can take down  
6 what is said. Okay?

7 THE WITNESS: Okay.

8 MR. CLOHERTY: I'll ask that  
9 you try and wait until I finish my question  
10 before you answer. And that way, even  
11 though you can anticipate what I'm going to  
12 ask, we're not talking over each other,  
13 and, again, the court reporter can record  
14 what each of us is saying. Okay?

15 THE WITNESS: Okay.

16 MR. CLOHERTY: If you don't  
17 understand my question for any reason, I'd  
18 ask that you let me know, and I'll try and  
19 rephrase it. Okay?

20 THE WITNESS: Okay.

21 MR. CLOHERTY: Otherwise, I'm  
22 going to expect that the answer you're  
23 giving is in response to the question I've  
24 asked. Fair enough?

1 THE WITNESS: Yes.

2 MR. CLOHERTY: You'll have an  
3 opportunity to review the transcript of  
4 this deposition for accuracy after it's  
5 completed.

6 Would you like an opportunity  
7 to do so, sir?

8 THE WITNESS: Yes.

9 MR. CLOHERTY: Ordinarily we  
10 extend 30 days in which to do so. And  
11 you'll be given an errata sheet, and an  
12 opportunity to make any corrections, and  
13 you have to sign off that you read it and  
14 it's accurate or not accurate. Okay?

15 THE WITNESS: Yes.

16 MR. CLOHERTY: We'll  
17 coordinate that after the deposition and  
18 when you can either come to the court  
19 reporter's office and review the transcript  
20 or whatever methods we can get to have you  
21 review the transcript. Okay?

22 THE WITNESS: Okay.

23 Q Now, before coming to testify here today,  
24 sir, did you do anything to prepare for

1           your deposition?

2       A       Not really.

3       Q       Did you speak to anybody about the content  
4           of your testimony today?

5       A       Just my father.

6       Q       And what did you and your father talk  
7           about?

8       A       He just told me what it's like to be in a  
9           deposition.

10      Q       Your father is not representing you today  
11          as an attorney, is he, sir?

12      A       No.

13      Q       Did you talk to your father at all about  
14          the content of your testimony?

15      A       No.

16      Q       Did you talk to anyone else about the  
17          content of your testimony?

18      A       No.

19      Q       Did you talk to the plaintiff, Eric  
20          Souvannakane, prior to coming here to  
21          testify?

22      A       No.

23      Q       Did you review any documents before coming  
24          to testify?

1 A No.

2 Q Are you on any medications today, sir?

3 A No.

4 Q And where do you currently live, sir?

5 A Melrose, 19 Ledge Street, Melrose, Mass.

6 Q How long have you lived at that address  
7 for?

8 A Pretty much all my life.

9 Q And who do you live there with?

10 A My parents, my brother.

11 Q And what's your date of birth, sir?

12 A October 7, 1982.

13 Q And can you tell me a little bit about your  
14 educational background, sir? Where did you  
15 go to school?

16 A I went to school in Melrose. I went to  
17 grade school in Melrose. I went to high  
18 school in Melrose, graduated high school  
19 and then I went to the military. And then  
20 I got out of the military, worked for  
21 Sears. Then I went back to school and  
22 currently work at Westminster Dodge.

23 Q I want to take you through that in a little  
24 more detail, sir.

1                                   When did you get out of  
2                   Melrose High School?

3       A       2001.

4       Q       And you said thereafter you served in the  
5               military, sir?

6       A       Yes.

7       Q       What branch of the military?

8       A       U.S. Marines.

9       Q       And for what years did you serve in the  
10              Marines?

11      A       I served from '01 to the end of October of  
12              '02.

13      Q       And were you discharged from the Marines,  
14              sir?

15      A       Yes.

16      Q       Are you still in the Marine Reserves?

17      A       No.

18      Q       And what kind of discharge did you receive?

19      A       OTH.

20      Q       What does "OTH" mean?

21      A       Other than honorable discharge.

22      Q       Did you serve in any combat or war zones?

23      A       No.

24      Q       Now, you said after leaving the Marines,

1 sir, you next became employed with Sears?

2 A Yes.

3 Q How soon after you got out of the Marines  
4 did you --

5 A A week.

6 Q And so it would be approximately in October  
7 of '02 that you began your employment?

8 A It was more like November 1st. It was the  
9 first week in November, sometime, I  
10 believe.

11 Q And what position did you take with Sears  
12 when you were hired there?

13 A As a -- they have three tech levels. It's  
14 a Tech 1. You do, like, tires, batteries,  
15 oil, miscellaneous little items.

16 Q And how long did you remain employed with  
17 Sears?

18 A I am currently still employed with Sears.

19 Q You mentioned also after Sears you returned  
20 to school?

21 A Yes. I returned to school and stayed at  
22 Sears part time, sold at Sears part time.

23 Q When you said you went back to school,  
24 where did you go back to school at?

1 A I went to Mass. Bay Community College. I'm  
2 still in Mass. Bay.

3 Q Is that as a full-time student?

4 A I'm still in makeup classes and night  
5 school. I do night classes.

6 Q And are you pursuing a degree there?

7 A Yes, associate's degree.

8 Q And is there any particular area of  
9 specialty in that associate's degree? Is  
10 it business or --

11 A It's automotive technology.

12 Q And how long have you been enrolled in  
13 Mass. Bay Community College for?

14 A I believe it was 2003 or 2004 -- 2003.

15 Q To the present?

16 A To the present, yes.

17 Q Now, you mentioned also that you were  
18 employed by Westminster Dodge?

19 A Yes.

20 Q Is that a full-time position?

21 A Yes.

22 Q And what do you do there?

23 A I'm an automotive technician.

24 Q And is that five days a week? Or how does

1           that work?

2       A       It's five days a week. I'm technically on  
3       a co-op schedule because the co-op doesn't  
4       end until, I believe, next month, for the  
5       automotive program. But I'm technically  
6       still in automotive classes.

7       Q       So your employment at Westminster Dodge is  
8       part of your co-op with the community  
9       college?

10      A       Yes, but it's -- it's an actual job. You  
11      have to go out and get the job, but it's --  
12      the experience you get from there applies  
13      to the college.

14      Q       You get credits for it at college?

15      A       Yes.

16      Q       And your current employment with Sears, you  
17      mentioned that's currently part time,  
18      correct?

19      A       Yes, sir.

20      Q       What are the hours or what's the part-time  
21      work?

22      A       I just work Sundays down there. I just got  
23      on the Sunday schedule. I used to work  
24      just weekends.

1 Q And when did you first change from  
2 full-time to part-time work at Sears, sir?

3 A When I started college.

4 Q Do you remember what month? You mentioned  
5 earlier it was 2003 that you started. Do  
6 you remember what month that was?

7 A I believe it was September.

8 Q And when you first switched to part-time  
9 employment in September of 2003, what was  
10 your schedule at Sears.

11 A It was just weekends and sometimes like a  
12 night, I'd try to squeeze in a Tuesday  
13 night. I believe it was Tuesdays.

14 Q And at the time you were -- after being  
15 hired as a Tech 1 at Sears, did you ever  
16 get any promotions or change in pay?

17 A No, they don't do meritorious promotions.  
18 You've got to do, like, classes for what's  
19 involved with the next tech level, which I  
20 did Tech 2 level classes and did all that,  
21 but I still received Tech 1 pay.

22 Q Just to clarify that testimony, are you  
23 saying you were qualified to be a Tech 2,  
24 but you never received that position?

1 A Yes, I qualified to do Level 1 and Level 2  
2 jobs, I get paid for Level 2 jobs, but I  
3 don't get the hourly pay as a Level 2.

4 Q And still today, is your position at Sears  
5 a Tech 1 position?

6 A Yes.

7 Q Do you hold any licenses or certifications  
8 for your profession or trade, sir?

9 A No.

10 Q Now, I ask this of all witnesses, sir.

11 Have you been convicted of a  
12 misdemeanor in the past five years?

13 A No.

14 Q Have you been convicted of a felony since  
15 age 18 to today?

16 A No, never convicted of a felony.

17 Q Are you aware, sir, that I'm representing  
18 Officer Gary Mansfield, employed by the  
19 Saugus Police in this action?

20 A Yes.

21 Q Have you, yourself, ever been arrested by  
22 any member of the Saugus Police?

23 A No.

24 Q And do you know who Officer Gary Mansfield

1 is?

2 A I don't believe I've ever seen him before.

3 Q Now, when you were employed by Sears, when  
4 you first started employment there, did you  
5 have a supervisor?

6 A We had an assistant manager and a manager.  
7 As far as a supervisor, I'm not really sure  
8 what -- who would fall under that position.

9 Q When you were first hired, who was the  
10 assistant manager that you worked for?

11 A Bill Dooley was the assistant manager.

12 Q And who was the manager at the time you  
13 were first hired?

14 A The manager's name was Rick Mead.

15 Q And as far as your day-to-day activities at  
16 Sears, did anyone give you direction on  
17 what jobs to be doing?

18 A The jobs that come back get put on the  
19 board, you go up to the board, you take a  
20 job, you do the job, you put the keys up  
21 front.

22 It's not, like, regulated.  
23 They just put it up there; you take the  
24 next one in line.

1 Q Was there any seniority among the techs  
2 doing the work as to who was assigned  
3 various jobs?

4 A No, not really. It was just if you're of  
5 that skill level, you would take jobs,  
6 like, the Skill Level 3s would take the  
7 alignments, then the 2s would get mixed up  
8 really. They do, like, basically Level 1  
9 stuff. And then Level 1s would grab tires  
10 or oil, and someone would be working the  
11 battery lane.

12 Q During your employment at Sears, did the  
13 positions of assistant manager and manager  
14 change?

15 A Yes, many times.

16 Q About the time that you switched to your  
17 part-time employment in September 2003, do  
18 you recall who the assistant manager and  
19 manager were?

20 A The manager was Anthony Ceiri. He's been  
21 the manager ever since Rick left. And the  
22 assistant manager was Dave Herrick.

23 Q And has Mr. Ceiri continued to be the  
24 manager until today?

1 A Yes.

2 Q I might have already asked you this and I  
3 apologize.

4 When you first switched  
5 employment in September of 2003, do you  
6 remember how many hours a week you were  
7 working?

8 A I worked double shifts Saturdays, and I'd  
9 work 10 to 5 on Sundays. Double shifts was  
10 7:30 to 7 on Saturdays. I don't think they  
11 were open until 8 then. They used to be  
12 open late on Saturdays and they switched  
13 it. I can't remember when.

14 Q And on Sundays, again, if I could ask you  
15 to restate that. You worked what?

16 A Sundays is 10 to 5.

17 Q And you mentioned you believe you might  
18 have worked one weeknight as well?

19 A Yes, when I got out of classes early,  
20 depending on the academic schedule compared  
21 to the automotive, sometimes we'd get out  
22 of academics early and I could make it down  
23 there early to work four or five hours,  
24 depending ...

1 Q Now, do you know Eric Souvannakane?

2 A Yes, I do.

3 Q And how is it that you know him?

4 A I know him through Sears.

5 Q Do you recall precisely when you first met  
6 him?

7 A I met him the first week I started there.

8 Q Was he already an employee of Sears at the  
9 time you started employment?

10 A Yes.

11 Q Did you work the same shifts as him when  
12 you first started employment?

13 A I don't believe we were the same. I mean,  
14 I'd see him, maybe, two or three times a  
15 week. The schedules always got changed.

16 Q And when you first started employment, do  
17 you know what level employee he was?

18 A He was a Level 1.

19 Q At the time you first started employment,  
20 how many Level 1 techs were employed at  
21 Sears?

22 A I can't honestly answer that because I  
23 don't -- I don't know who was what. I  
24 mean, I know there was at least five of us,

1 but I don't know -- there were older men  
2 working the same department, but I don't  
3 know if they were getting paid more. So  
4 I'm not really sure.

5 Q Of the Tech 1s that you knew at the time  
6 you first started employment, there was  
7 yourself, Eric Souvannakane, and who else,  
8 can you recall?

9 A Andy DiGaetano, John Mello, Mike Katsaris  
10 Eddy Felix. I think that's all I can  
11 remember.

12 Q Can you characterize your relationship with  
13 Eric Souvannakane?

14 A He was -- we just used to talk and stuff.  
15 He was the only one that really talked to  
16 me when I first started working there. So  
17 we just started talking.

18 Q Did you become friendly with him as a  
19 result of working together?

20 A Yes.

21 Q Did you ever socialize with Eric  
22 Souvannakane outside of work?

23 A Yes.

24 Q And when did you first start socializing

1 with him outside of work?

2 A Maybe two or three months after I started  
3 working there, maybe longer. I'm not  
4 exactly sure.

5 Q And what type of socializing would you do  
6 with Eric outside of work?

7 A We'd usually just drive around and listen  
8 to music, go to his friend's house or just  
9 hang out, really.

10 Q And when you drove around -- did Eric have  
11 a car or did you have a car?

12 A Eric had a car.

13 Q Do you remember what kind of car Eric had?

14 A An Audi.

15 Q Did you ever go to his house or socialize  
16 with his family at all?

17 A I've never been in his house. I've never  
18 socialized with any members of his family.

19 Q Do you know any of his family members from  
20 outside of that, not going to his house?

21 Did you ever meet any of his family  
22 members?

23 A No.

24 Q Do you know if he has any kids?

1 A Yes. He has a daughter.

2 Q Did you ever meet his daughter?

3 A I've seen his daughter twice.

4 Q And on what occasions did you see his  
5 daughter?

6 A Bumped into him at the mall, and while I  
7 was leaving work one day, he was driving  
8 out of the mall parking lot and stopped.

9 Q On either of those occasions, was Eric  
10 still employed at Sears?

11 A No.

12 Q It was after his employment?

13 A Yes.

14 Q Did Eric ever stay over your house or visit  
15 your house?

16 A He'd come over and -- I have a car that I'm  
17 putting together, and he'd -- we'd just sit  
18 and talk and he'd look at the car. But as  
19 far as, like, stay over, stay over, he  
20 never stayed over.

21 Q And what kind of car are you putting  
22 together, sir?

23 A I'm putting together an '86 Camaro.

24 Q Do you own any other car, sir?

1 A Yes, I own an '88 Chevy pickup truck.

2 Q Have you ever lent either of your cars to  
3 Eric to drive?

4 A Neither of those, no -- none of those.

5 Q Have you ever lent any prior cars you've  
6 owned to Eric to drive?

7 A Yes.

8 Q What other cars?

9 A It wasn't -- well, I wasn't the owner. I  
10 loaned him a Ford pickup. It was a '98  
11 Ford.

12 Q And who's car was it that you were loaning?

13 A It was my father's truck.

14 Q And how frequently did you loan him your  
15 father's Ford pickup?

16 A Just once.

17 Q And what was the reason you were lending  
18 him your father's Ford pickup?

19 A He was moving out of his house or apartment  
20 and he had to move a couch or a bed,  
21 something big.

22 Q Did you help him with that move?

23 A No.

24 Q Have you continued to remain friendly with

1 Eric since he left employment with Sears?

2 A I might talk to him one month -- once a  
3 month. That's about it. I haven't hung  
4 out with him in a long time.

5 Q When you said you talk to him once a month,  
6 is that by telephone?

7 A Yes. I bumped into him once after work.  
8 That was a while ago.

9 Q Was that the time you mentioned earlier  
10 when he was coming out of the mall?

11 A No, I was coming out of Dodge, and he was  
12 coming home from Norwood or somewhere, and  
13 I talked to him to about five minutes.  
14 That's it.

15 Q Do you know where Eric works today?

16 A He works for Toyota. I don't know which  
17 one, but I know he works for Toyota.

18 Q Did he tell you what he's doing for Toyota?

19 A He told me he's a sales -- car salesman.

20 Q Did you talk to him at all about whether he  
21 enjoys that position?

22 A Not really. I just asked him about --  
23 like, their cars and stuff.

24 Q Did you talk to him about what kind of

1 money he's making in that position at  
2 Toyota?

3 A No.

4 Q Did he tell you he was making more money as  
5 a cars salesman than he was as a tech?

6 A No.

7 Q When you worked with Eric at Sears, did you  
8 have an opportunity to observe the kind of  
9 work that he did?

10 A Yes.

11 Q What kind of work did Eric do at Sears?

12 A He did tires mostly, sometimes oil,  
13 sometimes batteries, just like all the  
14 other Tech 1s.

15 Q Did you have any opportunity to observe the  
16 quality of Eric's work?

17 A Yes.

18 Q And what did you observe?

19 A He was a good worker. He was a really good  
20 worker.

21 Q And why do you say that, sir?

22 A Well, he'd take his time. He'd do things  
23 right. He wouldn't rush a job or --

24 Q Did you ever observe Eric have any

1 conflicts or heated discussions with any  
2 customers of Sears?

3 A No, never. A lot of friendly ones, but  
4 never aggressive ones.

5 Q Did you ever hear Eric swear in the  
6 workplace?

7 A Not to customers. We all swear, but not in  
8 front of customers.

9 Q And when you all swear, I take it, it's,  
10 kind of, an auto shop atmosphere with all  
11 men around; is that fair to say?

12 A Exactly.

13 Q So if someone drops a pipe, they might  
14 swear about dropping the pipe or something  
15 to that extent?

16 A Exactly.

17 Q And Eric was no different than any of the  
18 other mechanics working there?

19 A Absolutely not. We were all the same.

20 Q Were you ever aware of anyone at Sears  
21 being disciplined or reprimanded for  
22 swearing to a customer?

23 A He told me he was on -- I forget what they  
24 call it, but he couldn't go to work for two

1 or three days, but he got paid anyway, for,  
2 supposedly, swearing to somebody. But I  
3 wasn't there that day, so ...

4 Q That was going to be my next question.

5 Do you have any knowledge of  
6 the incident that led to his being sent  
7 home with pay?

8 A No. The times that he supposedly got in  
9 trouble with customers, I wasn't working.  
10 I either had the day off or I was on the  
11 next shift.

12 Q And did you later learn of these incidents  
13 from talking to Eric?

14 A Yes.

15 Q And what did he tell you about the first  
16 incident?

17 A Where he swore at a man. I think he swore  
18 at a man. He was flipping tires over.  
19 Somebody mounted tires on that were -- had  
20 the white letters on the outside, and I --  
21 somebody handed him the ticket to fix it,  
22 and he was fixing it. And the guy who  
23 owned the car saw him doing it and thought  
24 he was the one who did it, and they had

1 words, I guess. I don't know.

2 I guess the guy who owned the  
3 car got mad at Eric, started saying  
4 something to Eric. And Eric said, I didn't  
5 even do this; I'm fixing it. And that's  
6 all I know of that.

7 Q Did Eric tell you that he, in fact, did  
8 swear back at the customer?

9 A He didn't tell me he swore. He just said  
10 that the guy was really mad, and he was  
11 yelling, and then he told him he didn't do  
12 it. He really doesn't get in depth when he  
13 tells you stuff.

14 Q Did you learn from any other sources about  
15 what happened for that incident?

16 A When I came -- I went to work and I asked  
17 if he was working one day or something and  
18 they said no, they sent him home. I can't  
19 remember if that was the same day or the  
20 next day. I can't remember.

21 Q Did anyone else at Sears tell you the  
22 reasons why Eric was sent home?

23 A I can't remember.

24 Q Was there talk among the techs at all about

1 Eric being sent home from work?

2 A Not that I remember. I remember someone  
3 saying, Oh, they're getting rid of all the  
4 workers, but that's about it.

5 Q And was that statement, They're getting rid  
6 of all the workers, directly about Eric?

7 A It was in regards to Eric because, like I  
8 said, he worked -- he was a good worker.  
9 And they were -- that's when everything  
10 started changing. They started hiring new  
11 people and letting people go or people  
12 started leaving.

13 Q Was there a fairly regular turnover of  
14 employees at the auto department?

15 A As in -- how do you mean?

16 Q Did people come and go on a regular basis  
17 for employment?

18 A Yes. Yeah, I'd say so.

19 Q Now, you mentioned earlier that there was  
20 another incident where he got in trouble  
21 that you weren't present for. What do you  
22 know about that incident?

23 A All I know is he supposedly said some  
24 sarcastic remark in front of a female

1 customer and she got upset. That's all I  
2 know about that.

3 Q And you weren't present that day?

4 A No.

5 Q How did you learn about that incident?

6 A I believe I found out when I went to work  
7 and then after -- either that day or the  
8 next day, then he called me or I called him  
9 and he told me. But I'm pretty sure I  
10 found out when I went to work.

11 Q And do you remember who from work told you  
12 about the incident where he was sarcastic  
13 with a female customer?

14 A I have no idea.

15 Q And other than what you just described, was  
16 there any further details given to you  
17 about him being sarcastic to another  
18 customer?

19 A No.

20 Q When you spoke to Eric on the phone, did he  
21 describe to you in any detail about what  
22 happened?

23 A No. He just said they let him go because  
24 he, supposedly, swore in front of a female

1 customer.

2 Q And when you said they let him go, what did  
3 you understand that to mean?

4 A That he got fired.

5 Q Did he tell you whether he had, in fact,  
6 sworn at the customer or not?

7 A No.

8 Q Did you ask him whether he swore at the  
9 customer?

10 A No.

11 Q And how soon after the first incident did  
12 the second incident occur?

13 A It was relatively close, if I remember  
14 correctly, a week, maybe two. I'm not  
15 exactly sure.

16 Q Did Eric describe to you in any other  
17 detail about what happened in that incident  
18 with the woman?

19 A No, not that I can remember. It was really  
20 a short conversation.

21 Q Did Eric complain that he was wrongly fired  
22 from his position?

23 A Yeah, he was upset. I mean, he said he  
24 didn't deserve to be fired as far as that's

1 concerned, but ...

2 Q Did he indicate to you that he was going to  
3 take any steps in response to getting  
4 fired?

5 A No.

6 Q Did you discuss any steps you would take on  
7 his behalf?

8 A The only thing I asked him is, what does he  
9 plan on doing now for work.

10 Q And what was his response?

11 A I can't remember.

12 Q You said that conversation only lasted  
13 about five minutes or so?

14 A Yeah, we don't -- when we talk on the  
15 phone, we don't talk long. It's just to  
16 the point and that's it.

17 Q Did you speak to anyone else at Sears about  
18 that incident where he was alleged to have  
19 sworn at a female customer?

20 A I don't remember.

21 Q Was there any discussion among the techs  
22 about Eric being fired for swearing at a  
23 female customers?

24 A The only thing someone said was, They get

1           rid of the people who actually work and  
2           they keep the people who don't work.  
3           That's about it.

4       Q     And do you remember who said that comment  
5           to you?

6       A     John Mello.

7       Q     Is Mr. Mello still employed at Sears?

8       A     Yes.

9       Q     And did Mr. Mello tell you he had any  
10           knowledge of the incident of Eric swearing  
11           at a female customer?

12      A     No.

13      Q     Did you learn from any other source any  
14           further information about that swearing at  
15           a female customer incident?

16      A     No, it was never really discussed. Just he  
17           got fired for that, and that was it.

18      Q     Did any supervisor, either the assistant  
19           manager or the manager or anyone else,  
20           explain to the techs why Eric Souvannakane  
21           was fired?

22      A     No.

23      Q     Do you remember when it was that Eric was  
24           fired?

1 A I don't remember the date.

2 Q Do you recall a dispute at the automotive  
3 department concerning an oil spill?

4 A Yes, I remember. Well, how do you mean?  
5 Like what? How do you mean that?

6 Q Let me ask it a different way.

7 Do you recall in or around the  
8 time Eric was terminated there was a  
9 dispute over an oil spill?

10 A Dispute as in with who?

11 Q That there was any discussion about an oil.  
12 spill.

13 A I mean, we found spilled oil, if that's  
14 what you're asking. But as far as -- I  
15 don't know. The oil spill happened, yes.  
16 The oil spill happened.

17 Q And I'm just trying to locate it in time  
18 relative to when Eric was fired.

19 A Oh, what time?

20 Q Did it happen the same day that Eric was  
21 fired or --

22 A Oh, after -- it must have been a couple  
23 weeks after he got fired.

24 Q I'm going to ask you a bunch of questions

1 about that oil spill in a moment.

2 Was that a common occurrence  
3 at the automotive department to have an oil  
4 spill?

5 A Yes.

6 Q And how frequently did oil spills occur at  
7 the automotive department?

8 A Oil would spill every time you emptied the  
9 racks, the oil racks, from the lifts. Oil  
10 would spill all the time.

11 You could bump into the thing  
12 and oil would spill out of it because no  
13 one ever emptied the drain buckets that you  
14 could cart around. There was constantly  
15 oil on the floor by the oil base.

16 MS. TRAN: Can I make a  
17 request -- I'm Liza Tran; I represent  
18 Sears -- that Mr. Baldi not make any facial  
19 expressions while your son is testifying.

20 MR. BALDI: Excuse me?

21 MS. TRAN: I make a request  
22 that you not make any facial expressions  
23 while your son is testifying.

24 MR. BALDI: I wasn't even

1 looking at my son.

2 MS. TRAN: He may be looking  
3 at you. I just request that you refrain  
4 from making any facial expressions while  
5 your son is testifying.

6 MR. CLOHERTY: I'll instruct  
7 the witness. Mr. Baldi, you're to testify  
8 from your own memory. Okay? And not seek  
9 any assistance from anyone else that might  
10 be in the room. Okay?

11 THE WITNESS: That's exactly  
12 what I'm doing.

13 MR. CLOHERTY: Okay, thank  
14 you.

15 Q So you mentioned that it was a frequent  
16 occurrence that there would be oil spilled  
17 in the oil bays; is that fair to say?

18 A Yes.

19 Q And can you describe what the oil bay is?

20 A The oil bay is, kind of, like an alignment  
21 rack; it's a flat rack. You pull the car  
22 on. The whole car goes up in the air with  
23 the lift, and there's a drain -- you can  
24 call it a drain bucket that slides back and

1           forth from the rails in between the lift.

2           Q       So it's not as if -- some of these stores,  
3                   like, Jiffy Lube have an underground bay  
4                   where the workers go underneath the ground  
5                   working to change the oil, and the car  
6                   stays on the street level?

7           A       No, this goes up in the air.

8           Q       Okay. And there's a mechanism or a tool to  
9                   catch the oil when it's drained out to  
10                  change the oil?

11          A       Yes.

12          Q       And the oil that's drained out, where is  
13                  that stored in the oil bays?

14          A       I believe it goes into -- there's a -- it's  
15                  like a little -- I don't know what you want  
16                  to call it, like a shack with a door, and  
17                  there's a drum in there, a giant, giant  
18                  drum. And there's a hose that you can  
19                  connect to the racks to drain the oil that  
20                  gets sucked into the waste tank and someone  
21                  comes and empties the waste into the truck  
22                  and it goes to wherever it goes.

23          Q       Is the waste tank underground, sir?

24          A       I believe the waste tank is above ground.

1 Q And there's some pumping mechanism that  
2 sucks the oil out from the these moveable  
3 storage containers?

4 A Yes.

5 Q How big are the moveable storage containers  
6 used to drain the oil?

7 A The ones that you can count around the  
8 shop?

9 Q If there are multiple kinds, then you need  
10 to distinguish them.

11 A The ones that sit on the lifts, I couldn't  
12 tell you. I mean, they're about that long,  
13 I'd say 3 feet, maybe 2-and-a-half feet.  
14 It's a perfect square. I don't know  
15 exactly how much they hold. And the drums  
16 that go around the shop, they're gallons.  
17 I want to say 25, 30 gallons maybe.

18 Q Are there any other locations, other than  
19 what you just described, where oil is  
20 stored after it's drained?

21 A The only place -- we use a pump to suck out  
22 to the racks and the drain buckets so you  
23 can tote it around the shop. And they go  
24 into one big tank, like I said before. And

1           that's it for oil, as far as I know.

2       Q       And you've observed when there's -- is  
3           there an outside contractor that comes to  
4           remove the oil from the tank, the main  
5           storage tank?

6       A       Yes, it's a big truck.

7       Q       And you mentioned that there's frequently  
8           spills in the oil bays.

9                               What kind of volume of oil  
10           have you observed to be spilled in the oil  
11           bays?

12      A       Quarts, small, small spills, nothing huge.  
13           I mean, it's normal to have a couple quarts  
14           in the ground occasionally.

15      Q       And when the small spills occur, is there a  
16           procedure at the Sears automotive  
17           department on how to deal with that?

18      A       We usually just throw absorbent pads over  
19           them and you clean them up like that.

20      Q       And does the Sears automotive department  
21           have a supply readily available of these  
22           absorbent pads?

23      A       Actually, no, they don't. There's usually  
24           only one package. They don't even have

1 rags, shop rags. Those are scarce.

2 Q The absorbent pads that you used, how are  
3 those disposed of after a cleanup?

4 A In the trash.

5 Q Was there ever any training for you as a  
6 Sears tech on how to deal with oil spills  
7 of that nature?

8 A No.

9 Q Is there any bulletins or publications on  
10 the wall that state the steps you're  
11 supposed to take when dealing with an oil  
12 spill?

13 A There isn't. But when I went to college, I  
14 know now that there's supposed to have MDMS  
15 sheets. I believe it's MDMS sheets. And  
16 it tells you how to clean up certain  
17 chemicals and the proper way to dispose.

18 I didn't know that until I  
19 started going to college. When I got hired  
20 there, I had no idea. They did not train  
21 us in cleaning up oil or any kind of  
22 chemical spills.

23 Q And the MDMS sheets that you referenced, do  
24 you know what that stands for, sir?

1 A I forget.

2 Q Is it a Massachusetts state entity?

3 A I'm not sure.

4 Q Now, you mentioned earlier that a couple  
5 weeks after Eric was terminated, you were  
6 aware of an oil spill in the oil bays?

7 A Yes.

8 Q I'm going to focus your attention on that.

9 When did you first become  
10 aware of the oil spill in the oil bays at  
11 that time?

12 A I was first aware of it the night before  
13 the biggest incident happened. I remember  
14 seeing oil on the ground. And I believe I  
15 told -- Kevin Sullivan was there that  
16 night -- about the oil in the back because  
17 it wasn't -- you know, it wasn't big, but  
18 it wasn't normal as far as -- like an  
19 everyday occurrence thing. It was bigger  
20 than normal, but it wasn't huge.

21 Q I'm going to ask you: Who is Kevin  
22 Sullivan?

23 A Kevin is -- I think his position is called  
24 a lead CSA. I don't know what it means,

1 but he's basically -- he's a manager on  
2 Sundays, pretty much, and a manager at  
3 nights. They give him the responsibility  
4 of closing the store, sometimes opening.

5 Q Do you know what a CSA stands for?

6 A I have no idea.

7 Q The time that you reported that to Kevin  
8 Sullivan, do you remember what time -- it  
9 was an evening shift?

10 A It was the evening and we were about ready  
11 to get out of there.

12 Q And do you know what caused that oil spill  
13 that was on the ground that you saw that  
14 you reported to Kevin Sullivan?

15 A I have no idea. It was around the waste  
16 tanks in the back. I have no idea.

17 Q Can you estimate the volume of oil that was  
18 spilled?

19 A I don't know the volume, but it was a  
20 puddle of about, I want to say, 5 feet --  
21 5 feet wide. I couldn't tell you how far  
22 back it went because it went under --  
23 there's a giant plastic drum back there and  
24 there was a whole bunch of other stuff back

1           there. But as far as I could see, it was  
2           about 5 feet wide, maybe 6 feet.

3       Q     And you couldn't tell the depth of the  
4           puddle because there were items in the way?

5       A     There was a whole bunch of stuff in the  
6           back. There are drums, other waste tanks;  
7           there are other oil drums that you pull oil  
8           from.

9       Q     You had been working earlier that day,  
10          correct?

11      A     Yes. I don't remember my exact hours, but  
12          I was working -- I believe I worked  
13          something like a noon shift to close. And  
14          I don't remember what time they closed back  
15          then. They changed their hours.

16      Q     Had you seen any oil at any time earlier in  
17          the day that you just described, that  
18          puddle of oil?

19      A     No.

20      Q     Had you been back in the area where that  
21          puddle of oil was?

22      A     Throughout the day?

23      Q     Yes.

24      A     I don't recall.

1 Q Do you know if -- in other words, I'm  
2 asking, do you know if that puddle of oil  
3 was existing for a long period of time  
4 before you saw it?

5 A I don't know how long the oil was there  
6 for.

7 Q Had you seen Eric Souvannakane that day  
8 that you noticed the oil spill and reported  
9 it to Kevin Sullivan?

10 A Yes. I saw him earlier and -- well, it was  
11 dark out, but I don't remember what time it  
12 was.

13 Q It was earlier in the evening, then?

14 A Yes. He came once. I gave him the keys.  
15 He came back, gave me the keys back.  
16 That's when it was dark out.

17 Q Now, you just mentioned he came and got the  
18 keys. What are you referring to when he  
19 came and you gave him the keys?

20 A Keys to the Ford pickup so he could do his  
21 whole move.

22 Q So the earlier incident you mentioned that  
23 you lent him your dad's Ford pickup truck,  
24 that was the same day as the -- when you

1 noticed that oil spill and reported it to  
2 Kevin Sullivan?

3 A It was the same day.

4 Q And how was it that Eric came to see you to  
5 get the keys to the car? Had you spoken to  
6 him before to make those arrangements?

7 A I don't remember. I think he asked me  
8 beforehand, but I'm not really sure.

9 Q Is it possible that he just arrived at the  
10 work site and asked you if he could borrow  
11 your truck then?

12 A Yeah, he could have.

13 Q And at that point in time, you knew that  
14 Eric had already been terminated from his  
15 employment?

16 A Yes.

17 Q Had you seen him back at the work site at  
18 any time since his termination until that  
19 time he came to get the keys?

20 A Yes.

21 Q How many times had he come back to the work  
22 site?

23 A I'm not sure, less than five maybe.

24 Q And under what circumstances did he come

1 back to the work site after his  
2 termination?

3 A He -- I saw him -- he was driving by once  
4 when he had his daughter -- he was coming  
5 from the back because there are two ways to  
6 get into the parking lot. And he was going  
7 to get something, and I was -- I forget why  
8 I was outside. But I saw him and I waved  
9 to him.

10 And then one time he came back  
11 to actually buy tires. And he actually  
12 talked with the boss, Anthony; he talked to  
13 Anthony Ceiri, the manager.

14 Q And who put on the -- did he actually buy  
15 tires?

16 A Well, he was -- I was talking to him  
17 outside. And Anthony came up and started  
18 talking to him. And we were by some bay,  
19 and then I went to finish a job. And it  
20 was, like -- I remember Anthony told him,  
21 you know -- he said he could buy tires. I  
22 remember telling him, Yeah, can you go up  
23 front. So Eric goes up front to wait for  
24 tires.

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19 and then I went to finish a job. And it  
20 was, like -- I remember Anthony told him,  
21 you know -- he said he could buy tires. I  
22 remember telling him, Yeah, can you go up  
23 front. So Eric goes up front to wait for  
24 tires.

1 Q Do you know whether he, in fact, bought  
2 tires at the time --

3 A No, he left. Sorry for interrupting.

4 Q That's okay.

5 Did you ever talk to him about  
6 why he left and did not buy tires?

7 A Yes.

8 Q And what did you learn?

9 A I -- actually, when he was in line to buy  
10 something, one of the salesmen said, Hey, I  
11 think you should leave. Anthony is on the  
12 phone and he's talking about you.

13 And he said, For what? He  
14 goes, I don't know; but I think you should  
15 leave.

16 And then he left. And I went  
17 back to the back shop. And then Anthony  
18 said, Where did he go? I'm, like, He left.

19 Q Did you have any further discussion with  
20 Anthony about that?

21 A He said, He's not supposed to be here. And  
22 I said, Why did you tell him to go wait in  
23 line? And he was -- he was upset. I mean,  
24 he was turning red. And then he --

1 Q Who was turning red, Anthony?

2 A Yes, Anthony was turning red. Eric was  
3 gone. Eric left after the salesman said, I  
4 think you should leave.

5 Q And what further transpired between you and  
6 Anthony talking about that?

7 A I just remember him being upset. And then  
8 he started yelling at me. And I said,  
9 Don't yell at me.

10 Q And how did he respond when you told him  
11 not to yell at you?

12 A I don't remember exactly what he did. I  
13 just remember him being upset. And then I  
14 remember asking him, If he's not supposed  
15 to be here, why did you send him in the  
16 line to buy tires?

17 Q Did Anthony have a response to that?

18 A I don't remember.

19 Q Did you have any further information or  
20 knowledge of that incident where Eric came  
21 to buy tires?

22 A No.

23 Q Now, directing your attention back to the  
24 date when Eric was borrowing the keys to

1           your dad's Ford, can you please describe  
2           your memory of what happened when Eric  
3           first came in to get the keys from you?

4       A     He came in and I -- I gave him the keys. I  
5           don't remember how long he stayed. It  
6           couldn't have been long because I was  
7           working and then he left. And he was gone  
8           for a couple of hours. And then he came  
9           back and gave me the keys.

10      Q     Did you have any discussion with him when  
11           he first borrowed the keys from you about  
12           borrowing the truck or what to do and not  
13           to do?

14      A     I don't remember exactly what was said.

15      Q     Did you see Eric talk to any other Sears  
16           employees when he was there first picking  
17           up the keys from you?

18      A     I don't recall.

19      Q     And how long was he in this store for when  
20           he was borrowing the keys that first time?

21      A     It couldn't have been long.

22      Q     A matter of minutes?

23      A     Possibly. I'm really not sure.

24      Q     And you said he returned a couple hours

1 later.

2 Can you describe what happened  
3 when he returned?

4 A He came back; he gave me the keys; I  
5 remember we were talking in one of the  
6 brake bays, more in the threshold to  
7 outside; we were just, you know, BS'ing  
8 around. And I remember he knocked one of  
9 the oil drums. And then he was, like, Oh.

10 He didn't -- when he bumped  
11 it, it was more like he was kidding. It  
12 wasn't, like, malicious. He was like, This  
13 is Larry's bay. He started cleaning up.  
14 He was like, Oh.

15 Q I didn't catch what you said, he said oh?

16 A Oh, this is Larry's bay. Larry is a brake  
17 guy that works in the back.

18 Q So earlier when you described it as the  
19 "brake bay," that's where you fix  
20 automobile brakes?

21 A Yes.

22 Q Did you see how he bumped into the oil  
23 drum?

24 A I think he kicked it. I'm not sure.

1 Q And what kind of -- can you describe the  
2 oil drum that he kicked?

3 A It was one of the ones that totes -- you  
4 can tote around the shop, the portable ones  
5 with the -- they have a steel drum and they  
6 have a catch pan connected to a pipe that  
7 runs into the drum.

8 Q And do you know the volume of that  
9 particular drum?

10 A That's one of those 20- 25- 30-gallon  
11 drums.

12 Q And you said that it got knocked over? Was  
13 it knocked over on its side?

14 A I can't remember if that was knocked over  
15 or if it was one of the 5-quart oil fill  
16 jugs that are on the top. Because if one  
17 of those fell over, it would be a mess.  
18 And there wasn't -- I mean, maybe a half a  
19 quart -- not even a half a quart of oil  
20 that came out when he hit the barrel.

21 Q Okay. So you have a memory of the volume  
22 of the spill being small?

23 A Yes. The oil that came out of what he hit  
24 was very small, I mean, smaller than this.

1 Q And the record is not going to reflect what  
2 you're pointing to.

3 A Sorry. It's smaller than --

4 Q 2 feet by a foot and a half?

5 A Yeah, 2 feet.

6 Q Now, you mentioned that there could have  
7 been two sources of that oil, the big  
8 30-gallon drum or another little 5-gallon  
9 gallon drum that you mentioned?

10 A 5 quarts.

11 Q 5 quarts?

12 A There's -- when you use one of those  
13 tote -- well, the tote drains, to drain the  
14 waste oil in. They have 5 -- there's one  
15 4-quart and one 5-quart metal fill. It's  
16 an oil fill. You go up to the pumps, you  
17 pump the new oil into that, and you use  
18 that to fill the car since the oil base is  
19 the only source of the oil. So you use  
20 those oil hoses to fill one of those and  
21 you can walk around the shop and fill up a  
22 car.

23 Q Okay. And the 5-quart oil fill buckets,  
24 are those stored on the ground level or are

1           they stored overhead or where are they  
2           kept?

3       A       They're stored wherever people leave them.

4       Q       And you have a memory of him kicking or  
5           bumping into some kind of barrel. Do you  
6           remember that?

7       A       Yes, he bumped into one of the -- the waste  
8           oil -- the tote waste oil drain buckets,  
9           and I can't remember if that's what moved  
10          and caused the oil to come out or if it was  
11          one of those 5-quart fills that was in the  
12          pan on top of it, because sometimes people  
13          will leave it up there.

14      Q       Oh, okay. That's what I was trying to  
15           determine.

16                               How could his bumping into the  
17          30-gallon drum affect the 5-quart metal  
18          fill?

19      A       Yes. I believe there was a 5-quart in that  
20          drain because a lot -- I even do it. You  
21          leave the 5-quart inside the waste pan, so  
22          you don't get oil everywhere.

23      Q       And either way there was a spill created by  
24          Eric's conduct, right?

1 A Yes, a very small spill.

2 Q And what happened after that?

3 A He put down the abrasive pads, put down one  
4 or two, cleaned it up, put it in the trash.  
5 We talked, and then he left.

6 Q When you say "abrasive pads," you mean the  
7 absorbent pads?

8 A Yes, yes, excuse me, the absorbent pads,  
9 the white absorbent pads. They're 3M pads.

10 Q Did you see him clean up those pads after  
11 they had been placed down?

12 A Yes. He cleaned the oil up, picked the  
13 pads up, put them in the trash.

14 Q Did you have any discussion with him about  
15 that spill while he was doing the cleanup?

16 A I walked outside. I, kind of, turned my  
17 back, walked outside, came back in.

18 Q Did you help him in the cleanup itself?

19 A No.

20 Q Did he tell you not to tell anyone about  
21 the cleanup?

22 A No, not to the best of my knowledge,  
23 anyway.

24 Q Did he tell you, You didn't see anything?

1 A No.

2 Q Did he ask you to go outside and be a  
3 lookout for him while he was cleaning up?

4 A No.

5 Q Why did you go outside, sir?

6 A I was -- we were more in the threshold and  
7 when that happened, he said, This is  
8 Larry's bay. And I, kind of, did one of  
9 these and laughed a little bit and, kind  
10 of, did one of those. I, kind of -- I  
11 turned to my left. I was leaning up  
12 against the threshold, and I, kind of,  
13 walked outside and did one of these  
14 (indicating). I put my hand on my face; I  
15 came back in. And he was cleaning it up.

16 It was -- I mean, it wasn't  
17 long enough where I would have missed  
18 anything as far as me turning away. I  
19 didn't actually turn my back away from it.  
20 I just, kind of, walked.

21 Q Okay. And just so the record is clear,  
22 when you were describing your actions, you  
23 said, I, kind of, did one of these. And  
24 you were gesturing by rubbing your hand on

1 your eyes?

2 A Yes, I put my hand on my head and covered  
3 one of my eyes.

4 Q What happened after you saw Eric do that  
5 cleanup and throw the absorbent pads in the  
6 trash?

7 A I don't remember exactly what was said. I  
8 know he left shortly after that.

9 Q And did you see the area where the spill  
10 had happened after he did the cleanup?

11 A The spill that -- when he hit the --

12 Q Yes, the one that Eric was cleaning up.  
13 Did you see the area that he was cleaning  
14 up after it was done?

15 A Yes, it was in a -- it was almost in the  
16 middle, like, exact middle of the bay. It  
17 was right out in the open.

18 Q And was the cleanup effective in the  
19 fact -- was the oil cleaned up?

20 A Yes.

21 Q How far was the location of that spill from  
22 the site of the oil you saw on the floor  
23 that you reported to Kevin Sullivan?

24 A The oil -- the oil he bumped or knocked was

1 in a brake bay. There's a dead bay and  
2 then the oil bays start. I want to say  
3 it's 25 feet away, maybe 30 feet away.

4 Q So it was two bays over?

5 A About two bays over, yes.

6 Q Did you ever see Eric Souvannakane in that  
7 bay, the oil bay, where you had later  
8 noticed the spill?

9 A No, we stayed by the thresholds of the  
10 brake bays.

11 Q Did you at any time that day see him or  
12 that evening see him in the area by that  
13 oil spill in the oil bay?

14 A No.

15 Q So earlier you had described that you had  
16 seen the oil spill in the oil bay that you  
17 reported to Kevin Sullivan. Do you recall  
18 that you testimony?

19 A I don't remember exactly. I remember  
20 walking -- that same night I remember  
21 walking back from there, and he was walking  
22 next to me. That's why I believe I told  
23 him about the oil down in the back.

24 I remember walking back up to

1 the front of the shop with him from the oil  
2 bays.

3 Q By "him" you're referring to Kevin  
4 Sullivan?

5 A Yes.

6 Q Did you take him to show Kevin Sullivan  
7 where the oil spill was?

8 A I can't recall if he was down back closing  
9 the doors, the oil bay doors, because  
10 people left them open all the time. I  
11 can't recall what he was doing or if I took  
12 him down there. But I remember walking  
13 back from the oil bays.

- 14 Q And do you recall telling Kevin Sullivan  
15 about the spill?

16 A I think I told him about the spill. I'm  
17 pretty sure I said, Hey, there's -- I think  
18 I said something like, Hey, there's oil  
19 down back.

20 Q And what was Kevin Sullivan's reaction?

21 A I don't recall exactly.

22 Q Did he ask you how big a spill it was?

23 A I don't remember if he asked me how big it  
24 was or if, when he was walking around, he